

members which remains undisposed of in its inventory at the time such commodity is offered as security for a loan or is offered for purchase. The association may establish separate pools as needed for quantities of a commodity acquired from its members. If the association obtains price support from CCC on any quantity of the commodity included in a pool, all of the commodity included in such pool must be eligible for price support. Whether pooled or not, the commodity offered for price support must:

(a) Have been produced by an eligible producer on a farm on which the production of such commodity is eligible for price support under the applicable price support program regulations;

(b) Meet the eligibility requirements for making price support to the association under applicable price support program regulations, except that a part of a pooled commodity may be ineligible for price support because of grade or quality or, in the case of cotton, bale weight or being repacked; and,

(c) Have been delivered to the association for marketing for the benefit of producer members or by association members in behalf of their producer members.

If price support is obtained on any quantity of a crop of a commodity, allocations of costs and expenses among separate pools for the crop of the commodity shall be made in accordance with sound accounting principles and practices. Any losses incurred by the association in marketing a commodity on which price support is not obtained from CCC shall not be assessed against the proceeds of marketing of a commodity on which price support was obtained. CCC may approve an exception to the foregoing requirements upon written request by the association if the Executive Vice President, CCC, determines that the approval of such request will result in equitable treatment of producers and is in accord with the purposes of the price support program.

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 23, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-16047; Filed, Nov. 30, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-304]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (12) relating to the State of North Carolina, subdivision (vii) relating to Pitt County is deleted, and subdivision (iv) relating to Greene County is amended to read:

(12) North Carolina. * * *

(iv) That portion of Greene County bounded by a line beginning at the junction of U.S. Highway 258 and Contentnea Creek; thence, following the north bank of Contentnea Creek in a southeasterly direction to Panther Swamp Creek; thence, following Panther Swamp Creek in a northerly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a southwesterly direction to Secondary Road 1328; thence, following Secondary Road 1328 in a northwesterly direction to Secondary Road 1325; thence, following Secondary Road 1325 in a northwesterly direction to Secondary Road 1244; thence, following Secondary Road 1244 in a southwesterly direction to Secondary Road 1222; thence, following Secondary Road 1222 in a southerly then southwesterly direction to State Highway 58; thence, following State Highway 58 in a southeasterly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a northwesterly direction to its junction with Contentnea Creek.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

This amendment excludes portions of Pitt and Greene Counties in North Carolina from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 25th day of November 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-16076; Filed, Nov. 30, 1970; 8:48 a.m.]

Chapter II—Packers and Stockyards Administration, Department of Agriculture

PART 204—ORGANIZATION AND FUNCTIONS

Miscellaneous Amendments

Pursuant to the order of the Secretary of Agriculture, effective May 8, 1967 (32 F.R. 7186), and his order effective November 27, 1964 (29 F.R. 16210), as amended April 22, 1969 (34 F.R. 6938), Title 9, Chapter II, Part 204 of the Code of Federal Regulations, is hereby amended as follows:

1. In § 204.2, paragraph (b) is amended by changing the first sentence thereof, paragraph (b) (1) through (4) is added, and paragraph (d) is amended to read:

§ 204.2 Organization.

(b) Office of the Administrator. This office has overall responsibility for administering the provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 et seq.), for enforcement of the Truth in Lending Act (15 U.S.C. 1601-1665) with respect to any activities subject to the Packers and Stockyards Act, 1921, as amended, and for executing assigned civil defense and defense mobilization activities. * * *

(1) *The Administrator.* The Administrator is responsible for the general direction and supervision of programs and activities assigned to the Packers and Stockyards Administration except such activities as are reserved to the Judicial Officer (32 F.R. 7468). He reports to the Assistant Secretary for Marketing and Consumer Services.

(2) *The Associate Administrator.* The Associate Administrator shares overall responsibility with the Administrator for the general direction and supervision of programs and activities assigned to the Packers and Stockyards Administration.

(3) *Executive Assistant to the Administrator.* The Executive Assistant to the Administrator participates with the Administrator and Associate Administrator in the development, administration, and analysis of policies and programs and directs the internal administrative management, information, and related activities of the Packers and Stockyards Administration and maintains liaison with the Office of Management Services in arranging for management support services.

(4) *Director, Industry Analysis Staff.* The Director of the Industry Analysis Staff serves as the source of economic advice for the Administrator on broad policy questions and on the economic implications of various Administration programs and policies on livestock and poultry producers, on the several segments of the livestock, meat, and poultry marketing, processing, and wholesaling industries, and on consumers.

(d) *Livestock Marketing Division.* This Division enforces those provisions of the Packers and Stockyards Act relating to stockyard owners, market agencies, and dealers. Included within these responsibilities and functions are determination of the applicability of the provisions of the act to individual stockyard operations; posting of stockyards; registration and bonding of market agencies and dealers; testing of scales and checkweighing; acceptance for filing of schedules of rates and charges; surveillance and investigation of the lawfulness of rates and charges of stockyard owners and market agencies and the adequacy of stockyard services furnished by stockyard owners and market agencies; and surveillance and investigation of trade practices within the purview of the Act, other than packer and poultry marketing practices. The Division also initiates formal proceedings, when warranted, to correct illegal practices, rates, or charges and maintains working relationships with producer and industry groups.

§ 204.7 [Deleted]

2. Section 204.7 is deleted and §§ 204.3 through 204.6 are renumbered as §§ 204.4 through 204.7.

§§ 204.4-204.7 [Redesignated]

3. A new § 204.3 is added to read as follows:

§ 204.3 Delegations of authority.

(a) *Associate Administrator:* Under the direction and supervision of the Administrator, the Associate Administrator is hereby delegated authority to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation).

(b) *Executive Assistant to the Administrator:* The Executive Assistant to the Administrator, under the direction and supervision of the Administrator and the Associate Administrator, is hereby delegated authority to act, subject to § 204.11 and paragraph (i) of this section, on behalf of the Packers and Stockyards Administration, on all requests for records of said Administration, in accordance with 5 U.S.C. 552, as implemented by this part.

(c) *Division Directors:* The Directors of the Industry Analysis Staff, Livestock Marketing Division, and the Packer and Poultry Division, under administrative and technical direction of the Administrator and Associate Administrator, are hereby individually delegated authority, in connection with the respective functions assigned to each of said organizational units in § 204.2, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power to issue subpoenas and the power of redelegation) except such authority as is reserved to the Administrator and Associate Administrator under paragraph (i) of this section.

(d) *Branch Chiefs:*

(1) The Chief of the Rates, Services, and Facilities Branch; the Chief of the Marketing Practices Branch; the Chief of the Registrations, Bonds, and Reports Branch; the Chief of the Scales and Weighing Branch of the Livestock Marketing Division; the Chief of the Livestock Procurement Branch; the Chief of the Meat Merchandising Branch; and the Chief of the Poultry Branch of the Packer and Poultry Division are hereby individually delegated authority under the provisions of section 402 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 222), to issue special orders pursuant to the provisions of subsection 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) and, with respect thereto, to issue notices of default provided for in section 10 of the Federal Trade Commission Act (15 U.S.C. 50).

(2) The Chief of the Rates, Services, and Facilities Branch of the Livestock Marketing Division is hereby delegated authority to perform all acts, functions, and duties with respect to suspending the operation of schedules of rates and charges of stockyard owners and market agencies and extending the time of such suspensions as prescribed in subsection 306(e) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 207(e)) and all acts, functions, and duties as prescribed in § 202.3 of this chapter with respect to the investigation and disposition of informal complaints involving

rates or charges or the application of regulations of stockyard owners and market agencies, or the alleged failure of such persons to furnish reasonable stockyard services as required by section 304 of the Act (7 U.S.C. 205).

(3) The Chief of the Marketing Practices Branch of the Livestock Marketing Division is hereby delegated authority to perform all acts, functions, and duties with respect to the investigation and disposition of informal complaints for reparation as prescribed in § 202.3 of this chapter and to arrange for the service of documents and perform all other acts, functions, and duties of the Administrator and Administration as prescribed in §§ 202.39 through 202.43 of this chapter.

(4) The Chief of the Registrations, Bonds, and Reports Branch of the Livestock Marketing Division is hereby delegated authority to perform all acts, functions, and duties with respect to the posting and depositing of stockyards pursuant to the provisions of subsection 302(b) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202(b)), and perform all acts, functions, and duties of the Administrator with respect to the execution of bonds and trust fund agreements under §§ 201.27 through 201.38 of this chapter, including the power to determine that a bond is inadequate under § 201.30 (f) of this chapter and to determine the amount of bond needed under such paragraph.

(5) The Chief of the Poultry Branch of the Packer and Poultry Division is hereby delegated authority to perform all acts, functions, and duties of the Director of said Division with respect to issuing of licenses pursuant to the provisions of section 502(b) of the Packers and Stockyards Act, as amended (7 U.S.C. 218a (b)).

(e) *Area Supervisors:*

(1) The Area Supervisors of the Packers and Stockyards Administration are hereby individually delegated authority, under the provisions of section 402 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 222), to issue special orders pursuant to the provisions of subsection 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)), and, with respect thereto, to issue notices of default provided for in section 10 of the Federal Trade Commission Act (15 U.S.C. 50); to notify persons deemed to be subject to the bonding requirements in 7 U.S.C. 204 of their obligations to file bonds or trust fund agreements in conformity with §§ 201.27 through 201.38 of this chapter; to notify persons deemed to be subject to the reporting requirements in § 201.97 of this chapter of their obligation to file annual reports; and to grant reasonable requests for extension, of 30 days or less, of the time for the filing of such annual reports in conformity with § 201.97 of this chapter.

(2) The Area Supervisors are hereby individually delegated authority, when there is reason to believe that there is a question as to the true ownership of live-

stock sold by any person, to disclose information relating to such questionable ownership to any interested person.

(f) Investigative employees: All employees of the Packers and Stockyards Administration assigned to or responsible for investigations in the enforcement of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.) or the enforcement of the Truth in Lending Act (15 U.S.C. 1601-1665) with respect to any activities subject to the Packers and Stockyards Act, 1921, as amended or any other Act with respect to any civil defense or defense mobilization activities assigned to the Administration, are hereby individually delegated authority under the Act of January 31, 1925, 43 Stat. 803, 7 U.S.C. 2217, to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of the aforementioned Acts. This authority may not be redelegated and will automatically expire upon the termination of the employment of such employee with the Packers and Stockyards Administration.

(g) Concurrent authority and responsibility to the Administrator: No delegation prescribed herein shall preclude the Administrator or Associate Administrator from exercising any of the powers or functions or from performing any of the duties conferred upon them, and any such delegation is subject at all times to withdrawal or amendment by the Administrator or Associate Administrator or the Division Director responsible for the function involved. The officials to whom authority is delegated herein shall (1) maintain close working relationships with the Division Directors and Administrator or Associate Administrator, as the case may be, (2) keep them advised with respect to major problems and developments, and (3) discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with other Federal agencies, other agencies of the Department, other Divisions or offices of the Packers and Stockyards Administration, or other Governmental or private organizations or groups.

(h) All prior delegations and redelegations of authority relating to any function or activity covered by these delegations of authority shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignment of functions.

(i) Reservations of authority: There is hereby reserved to the Administrator and Associate Administrator the authority with respect to proposed rule making and final action for the issuance of regulations (§ 201.1 of this chapter et seq.), rules of practice governing proceedings (§ 202.1 of this chapter et seq.) and

statements of general policy (§ 203.1 of this chapter et seq.), and the issuance of moving papers as prescribed in the rules of practice, under the Packers and Stockyards Act, 1921, as amended; and the authority to make final determinations in accordance with the provisions of 7 CFR Part 1, Subpart A, as to the availability of official records and information made or obtained in connection with the administration of the Packers and Stockyards Act which are considered exempt from disclosure under § 204.9.

§ 204.5 [Amended]

4. In renumbered § 204.5, the reference to "§ 204.3" is changed to refer to "§ 204.4."

§ 204.6 [Amended]

5. In renumbered § 204.6, the reference to "§§ 204.3 and 204.4" is changed to refer to "§§ 204.4 and 204.5."

§ 204.8 [Amended]

6. In § 204.8, the reference to "§ 204.6" is changed to refer to "§ 204.7."

§ 204.10 [Amended]

7. In § 204.10, the reference to "§ 204.6" is changed to refer to "§ 204.7."

§ 204.11 [Amended]

8. In § 204.11, the phrase "or Associate Administrator" is added after the word "Administrator" in the third sentence.

§ 204.12 [Amended]

10. In § 204.12, the reference to "§ 204.6" is changed to refer to "§ 204.7."

Done at Washington, D.C., this 23d day of November 1970.

DONALD A. CAMPBELL,
Administrator, Packers and
Stockyards Administration.

[F.R. Doc. 70-16077; Filed, Nov. 30, 1970;
8:48 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER H—TRAINING

[General Order 97, Rev., Amdt. 7]

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Cadets at the U.S. Merchant Ma- rine Academy

GRADUATION

Effective upon the date of publication in the FEDERAL REGISTER, paragraph (c) of § 310.63 of Subpart C of this part is amended to read as follows:

§ 310.63 Graduation.

(c) In return for the education received at Government expense, each ap-

plicant signs an agreement to serve in one of the following categories immediately after graduation:

(1) Sail for 6 months a year in a licensed capacity aboard an American vessel for a period of 3 consecutive years;

(2) Sail for 4 months a year in a licensed capacity aboard an American vessel for a period of 4 consecutive years;

(3) Serve on active duty for a period of 3 years as a commissioned officer in uniformed services of the United States;

(4) Serve for 30 days on active duty for training aboard a vessel of the U.S. Navy each year for 3 consecutive years and be either employed ashore for the balance of each year in some phase of the maritime industry or engaged in full time graduate studies related to the maritime field.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114; sec. 216, 53 Stat. 1182, as amended; 46 U.S.C. 1126)

Dated: November 24, 1970.

By order of the Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-16029; Filed, Nov. 30, 1970;
8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-249]

FINES, PENALTIES, AND FORFEITURES, AND LIQUIDATED DAMAGES

On July 29, 1970, notice of proposed rule making for a revision of the Customs Regulations pertaining to fines, penalties, and forfeitures, and to liquidated damages was published in the FEDERAL REGISTER (35 F.R. 12124). This revision is part of the general revision of the Customs Regulations.

Interested persons were given 60 days in which to submit written comments, suggestions, or objections regarding the proposed revision. No comments were received.

The proposed new Parts 171 and 172, and the conforming amendments to Chapter I of Title 19 of the Code of Federal Regulations are hereby adopted subject to the following changes:

1. In § 8.59, paragraph (j) is amended rather than entirely deleted.

2. Section 25.19 is not deleted from Part 25 of the Customs Regulations.

3. In § 172.22, paragraph (d) is modified to reflect the amendment of its source, § 8.59(j), contained in T.D. 70-218, 35 F.R. 15911.

Parts 171 and 172, and the other amendment to Chapter I, Title 19 of the Code of Federal Regulations, are adopted as set forth below.

Effective date. These amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: November 18, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the
Treasury.

PART 6—AIR COMMERCE REGULATIONS

1. Section 6.11 is amended by deleting "§§ 23.23 to 23.25" in the last sentence and substituting "Part 171".

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

2. Section 8.59 is amended as follows:

a. Paragraph (i) is amended by substituting "district director" for "collector", and by inserting before the last sentence thereof a new sentence which reads: "Any application for cancellation of liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter."

b. Paragraph (j) is amended by deleting all but the last sentence thereof.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

3. In § 10.39, paragraphs (e) and (f) are amended by inserting after the word "filed" in the first sentence the words "as provided in Part 172 of this chapter" and by substituting "district director" for "collector" each time it appears.

4. In § 10.92, paragraph (d) is amended by substituting "district director" for "collector", and by adding at the end thereof a new sentence as follows: "Application for cancellation of the liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter."

PART 11—PACKING AND STAMPING, MARKING; TRADEMARKS AND TRADE NAMES; COPYRIGHTS

5. In § 11.11, paragraph (d) is amended by inserting after "filed" in the first sentence the words "as provided in Part 172 of this chapter" and by substituting "district directors" for "collectors" and "district director" for "collector".

PART 12—SPECIAL CLASSES OF MERCHANDISE

6. Section 12.38 is amended by deleting the material in parentheses at the end thereof, and substituting "(see § 171.22(b) of this chapter)".

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

7. In § 18.8, paragraph (d) is amended by inserting after the words "payment

thereof" the words "filed as provided in Part 172 of this chapter" and by substituting "district director" for "collector" each time the word appears.

PART 21—CARTAGE AND LIGHTERAGE

8. In § 21.8, paragraph (c) is amended by substituting "district director" for "collector" and by adding at the end thereof a new sentence as follows: "Application for cancellation of liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter."

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

9. In § 23.23, paragraph (c) is amended by deleting all but the first sentence, and paragraphs (d) and (e) are deleted.

10. Part 23 is amended by deleting therefrom §§ 23.24, 23.25, and 23.34.

PART 25—CUSTOMS BONDS

11. In § 25.15, paragraph (e) is amended by inserting after "application for relief" the words "in accordance with the provisions of Part 172 of this chapter".

12. Section 25.17 is amended by deleting paragraphs (a), (b), (e), (g), and (h).

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 171—FINES, PENALTIES, AND FORFEITURES

14. A new Part 171, entitled "Fines, Penalties, and Forfeitures" is added to read as follows:

Sec.

171.0 Scope.

Subpart A—General Provisions

171.1 Limitations on consideration of petitions.

Subpart B—Application for Relief

171.11 Petition for relief.

171.12 Filing of petition.

171.13 Additional evidence required with certain petitions.

Subpart C—Action on Petitions

171.21 Petitions acted on by district director.

171.22 Special cases acted upon by district director.

Subpart D—Disposition of Petitions

171.31 Act or omission did not occur.

171.32 Limitation on time decision effective.

171.33 Supplemental petitions for relief.

Subpart E—Restoration of Proceeds of Sale

171.41 Application of provisions for petitions for relief.

171.42 Time limit for filing petition for restoration.

171.43 Evidence required.

171.44 Forfeited property authorized for official use.

AUTHORITY: The provisions of this Part 171 issued under R.S. 251, secs. 618, 624, 46 Stat. 757, as amended, 759; 19 U.S.C. 66, 1618, 1624. The provisions of Subpart C also issued under sec. 1, 40 Stat. 223, as amended, R.S. 5294, as

amended, sec. 9, 24 Stat. 81, as amended; 22 U.S.C. 401, 46 U.S.C. 7, 320.

§ 171.0 Scope.

This part contains provisions relating to filing of petitions and action upon petitions for relief from fines, penalties, and forfeitures incurred, and petitions for the restoration of proceeds from sale of seized and forfeited property.

Subpart A—General Provisions

§ 171.1 Limitations on consideration of petitions.

(a) *Case referred for institution of legal proceedings.* No action shall be taken on any petition if the civil liability has been referred to the U.S. attorney for institution of legal proceedings. The petition shall be forwarded to the U.S. attorney.

(b) *Vessel or vehicle awarded for official use.* When a vessel or vehicle is awarded for official use, a petition shall not be considered unless:

(1) It is filed before final disposition of the property is made; or

(2) It is a petition for restoration of proceeds of sale filed in accordance with Subpart E of this part.

Subpart B—Application for Relief

§ 171.11 Petition for relief.

(a) *To whom addressed.* Petitions for the remission or mitigation of a fine, penalty, or forfeiture incurred under any law administered by the Bureau of Customs shall be addressed to the Commissioner of Customs.

(b) *Signature.* The petition for remission or mitigation shall be signed by the petitioner. If the petitioner is a corporation, the petition shall be signed by an officer thereof.

(c) *Form.* The petition for remission or mitigation need not be in any particular form. It shall set forth the following:

(1) A description of the property involved;

(2) The date and place of the violation or seizure; and

(3) The facts and circumstances relied upon by the petitioner to justify the remission or mitigation.

(d) *Petition for relief from forfeiture.* When the petition is for relief from a forfeiture, it shall show the interest of the petitioner in the property and in appropriate cases shall be supported by bills of sale, contracts, mortgages, or other satisfactory evidence.

(e) *False statement in petition.* A false statement contained in a petition may subject the petitioner to prosecution under the provisions of 18 U.S.C. 1001.

§ 171.12 Filing of petition.

(a) *Where filed.* A petition for relief shall be filed with the district director for the district in which the property was seized or the fine or penalty imposed.

(b) *When filed.* Petitions for relief shall be filed within 60 days from the date of mailing of the notice of fine, penalty, or forfeiture incurred, unless additional time has been authorized as provided in § 23.23(c) of this chapter.

(c) *Number of copies.* The petition shall be filed in triplicate.

§ 171.13 Additional evidence required with certain petitions.

(a) *Seized property in possession of another responsible for act.* If the seized property was in the possession of another who was responsible for or caused the act which resulted in the seizure, evidence shall be produced by the petitioner as to the manner in which the property came into the possession of such other person. The petitioner shall also submit evidence that prior to parting with the property he did not know, nor have reasonable cause to believe, that the property would be used to violate Customs or other laws, and that he did not know or have reason to believe that the violator had a criminal record or general reputation for commercial crime. In the case of a family member having an interest in property seized while in possession of another family member, evidence shall be submitted that the petitioning family member did not know or have reason to know that the property was likely to be used in the act which resulted in the seizure.

(b) *Petitioner holding chattel mortgage or conditional sales contract.* A petitioner holding a chattel mortgage or conditional sales contract covering the seized property shall submit with his petition evidence showing that:

(1) He has an interest in such property, as owner or otherwise, which he acquired in good faith;

(2) He had at no time any knowledge or reason to believe that the property was being or would be used in violation of Customs or other laws of the United States; and

(3) Whether prior to the financial transaction an inquiry of at least one enforcement agency in the locality where the purchaser most recently resided, or resided in the past year, was made as to the purchaser's criminal record and reputation for commercial crime, and a responsive reply received.

Subpart C—Action on Petitions

§ 171.21 Petitions acted on by district director.

In the following cases the district director may mitigate or remit fines, penalties, and forfeitures incurred under any law administered by the Bureau of Customs on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate:

(a) *\$2,000 or less.* (1) Fines and other pecuniary penalties aggregating \$2,000 or less in respect of any one offense;

(2) Forfeiture of imported merchandise or a claim for forfeiture value in lieu thereof when the merchandise is valued at \$2,000 or less;

(3) Forfeiture of merchandise other than imported merchandise when the merchandise is valued at \$2,000 or less, and no liability outside the purview of any other provision of this section has been incurred in connection with the same offense.

(b) *Over \$2,000 but not over \$20,000.* Penalty and forfeiture incurred under section 497, Tariff Act of 1930 (19 U.S.C. 1497), for failure to declare merchandise valued at more than \$2,000 but not over

\$20,000, if the failure to declare is a first offense and involves a noncommercial importation. Where undeclared merchandise is valued at \$2,000 or less, the provisions of paragraph (a) (1) and (2) of this section apply.

(c) *Not over \$20,000.* (1) Forfeiture of motor vehicles, other than imported motor vehicles, valued at \$20,000 or less, and no liability outside the purview of any other provision of this section has been incurred in connection with the same offense;

(2) Penalties and forfeitures, aggregating not over \$20,000 in any one case and incurred under section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report arrival as required by section 459, Tariff Act of 1930, as amended (19 U.S.C. 1459), in the following cases:

(i) Violations due to ignorance of the reporting requirements or due to inadvertence and either no merchandise, or only typical personal or souvenir merchandise which would have been free of duty, if entered, is carried in the vessel or vehicle, or

(ii) Where the violation is the first offense, although not due to ignorance or inadvertence, and no intended commercial use or threat to the revenue is involved.

(d) *Amount of penalty not specified.* Penalties imposed under title 13, United States Code, section 304, and in the amounts prescribed by Title 15, Code of Federal Regulations, § 30.24, for the failure to timely file the complete manifest of the carrier when required and all the required shipper's export declarations, when clearance or permission to depart prior to the filing thereof is granted upon the filing of the required bond.

§ 171.22 Special cases acted upon by district director.

(a) *Forfeitures of merchandise illegally transported coastwise.* Forfeiture of merchandise under title 46, United States Code, section 883, for having been illegally transported coastwise, regardless of the value of the merchandise, may be remitted if the petition for relief establishes to the satisfaction of the district director that the violation occurred as a direct result of an arrival of the transporting vessel in distress.

(b) *Forfeiture of imported liquor or compound.* When any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, or any vessel or vehicle in which the same has been transported has become subject to forfeiture under the provisions of 18 U.S.C. 3615, for noncompliance with 18 U.S.C. 1263, and the U.S. attorney has advised the district director that there is not sufficient evidence of intent to violate the law to warrant criminal prosecution thereunder, the forfeiture incurred shall be remitted pursuant to the authority of section 7327, Internal Revenue Code of 1954 (26 U.S.C. 7327), and section 618, Tariff Act of 1930 (19 U.S.C. 1618), upon the condition that the expenses of seizure, if any, shall be paid.

(c) *Claim for property stolen in Canada and seized by U.S. Customs.* Under the provisions of Executive Order 4306, dated September 19, 1925 (T.D. 41110), any person claiming to be the owner of property stolen in Canada, brought into the United States and seized by Customs authorities for violation of law, may file with the district director having custody of the property a petition for its release, addressed to the Secretary of the Treasury. The petition shall be supported by evidence of ownership in the claimant and shall contain a waiver and release of all possible claims against the United States or any officer thereof for compensation or damages incident to the seizure and detention of the property. If the district director is satisfied that the claimant is the owner of the property and that it was brought into the United States without collusion on the part of the claimant, the district director may release the property for return to Canada upon the payment of all expenses incident to its seizure and detention. In the event of conflicting claims for the property or any doubt as to the claimant's interest in or right to the property, the district director shall submit the matter to the Commissioner of Customs for decision.

Subpart D—Disposition of Petitions

§ 171.31 Act or omission did not occur.

If it is definitely determined that the act or omission forming the basis of a penalty or forfeiture claim did not in fact occur, the claim shall be canceled by the district director. When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be canceled without the approval of the Commissioner of Customs unless there is in force a ruling by the Commissioner of Customs decisive of the issue.

§ 171.32 Limitation on time decision effective.

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid shall be effective for not more than 60 days from the date of notice to the petitioner of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not received within the effective period, or arrangements made for delayed payment or installment payments, or a supplemental petition filed within the effective period, the full penalty or forfeiture shall be deemed applicable and shall be enforced by promptly referring the matter to the U.S. attorney for appropriate attention, unless other action has been directed by the Commissioner of Customs.

§ 171.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the petitioner is not satisfied with a decision of the district director or the Commissioner of Customs, a supplemental petition may be filed with the district director. Such a petition shall be filed either:

(1) Within 60 days from the date of notice to the petitioner of the decision on the initial petition for relief if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision on the initial petition for relief as the effective period of the decision.

(b) *Consideration.* Where the district director has the authority to grant relief or additional relief in accordance with § 171.21, he may grant such relief if he believes it is warranted and there has been no specific request for review by the Commissioner of Customs. In all other cases, the supplemental petition, together with all pertinent documents, shall be forwarded to the Commissioner of Customs for reconsideration of the case.

Subpart E—Restoration of Proceeds of Sale

§ 171.41 Application of provisions for petitions for relief.

The general provisions of Subpart B of this part on filing and content of petitions for relief apply to petitions for restoration of proceeds of sale except insofar as modified by this subpart.

§ 171.42 Time limit for filing petition for restoration.

A petition for the restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), shall be filed within 3 months after the date of the sale.

§ 171.43 Evidence required.

In addition to such other evidence as may be required under the provisions of Subpart B of this part, the petition for restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), shall show the interest of the petitioner in the property, supported in appropriate cases by bills of sale, contracts, mortgages, or other satisfactory documentary evidence. The petition shall be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or decree of forfeiture and was in such circumstances as prevented him from knowing of it.

§ 171.44 Forfeited property authorized for official use.

If forfeited property the subject of a claim under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), has been authorized for official use, retention or delivery shall be regarded as the sale thereof for the purposes of section 613. The appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of property of the kind so received is available for the granting of relief to the claimant and for the satisfaction of liens for freight charges and contributions in general average that may have been filed.

(Secs. 305, 306, 49 Stat. 880; 40 U.S.C. 304j, 304k)

PART 172—LIQUIDATED DAMAGES

15. A new Part 172, entitled "Liquidated Damages" is added to read as follows:

| Sec. | Scope. |
|---|---|
| 172.0 | Scope. |
| Subpart A—General Provisions | |
| 172.1 | Notice of liquidated damages incurred and right to petition for relief. |
| 172.2 | Failure to petition for relief. |
| Subpart B—Application for Relief | |
| 172.11 | Petition for relief. |
| 172.12 | Filing of petition for relief. |
| Subpart C—Action on Petitions | |
| 172.21 | Petitions acted on by district director of Customs. |
| 172.22 | Special cases acted on by district director of Customs. |
| 172.23 | Limitations on consideration of petitions. |
| Subpart D—Disposition of Petitions | |
| 172.31 | Act or omission did not occur. |
| 172.32 | Limitation on time decision effective. |
| 172.33 | Supplemental petitions for relief. |

AUTHORITY: The provisions of this Part 172 issued under R.S. 351, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624.

§ 172.0 Scope.

This part contains provisions relating to the giving of notice of liquidated damages incurred under the terms of any bond posted with Customs, the filing of petitions for relief from liquidated damages incurred, and the consideration of such petitions.

Subpart A—General Provisions

§ 172.1 Notice of liquidated damages incurred and right to petition for relief.

(a) *Notice of liquidated damages incurred.* When there is a failure to meet the conditions of any bond posted with Customs, the principal shall be notified in writing of any liability for liquidated damages incurred by him and a demand shall be made for payment. The sureties on such bond shall also be advised in writing, at the same time as the principal, of the liability for liquidated damages incurred by the principal.

(b) *Notice of right to petition for relief.* The notice shall also inform the principal and his sureties on the bond that application may be made for relief from payment of liquidated damages under section 623(c), Tariff Act of 1930, as amended (19 U.S.C. 1623(c)), or any other applicable statute authorizing the cancellation of any bond or of any bond charge that may have been made against such bond.

§ 172.2 Failure to petition for relief.

(a) *Referral of claim to U.S. attorney.* If the parties liable for liquidated damages incurred fail to petition for relief or to pay or make arrangements to pay the liquidated damages within 60 days from the date of mailing of the notice of the liquidated damages incurred as provided for in § 172.1, or within such additional time as may have been granted,

the district director of Customs shall refer the claim immediately to the U.S. attorney for collection.

(b) *Absence from the United States.* If it appears that the parties liable for liquidated damages are absent from the United States or during the 60-day period referred to in paragraph (a) of this section were absent for more than 30 days, the district director may withhold such referral for a reasonable time unless other action is expressly authorized by the Commissioner of Customs.

Subpart B—Application for Relief

§ 172.11 Petition for relief.

(a) *To whom addressed.* Petitions for relief shall be addressed to the Commissioner of Customs.

(b) *Form.* A petition for relief need not be in any particular form. Such petition shall set forth the facts relied upon by the petitioner to justify cancellation of the claim for liquidated damages, and shall be signed by the petitioner. If the petitioner is a corporation, the petition shall be signed by an officer thereof.

§ 172.12 Filing of petition for relief.

(a) *Where filed.* A petition for relief shall be filed with the district director of Customs for the district in which the liability for liquidated damages is incurred.

(b) *When filed.* A petition for relief shall be filed within 60 days from the date of mailing of the notice of the liability for liquidated damages incurred unless an extension of such period has been granted by the district director.

(c) *Number of copies.* The petition for relief shall be filed in triplicate.

Subpart C—Action on Petitions

§ 172.21 Petitions acted on by district director of Customs.

In the following cases the district director of Customs may cancel any claim for liquidated damages incurred on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate:

(a) *Under \$500.* Liquidated damages under \$500, incurred under the terms of any bond posted with Customs.

(b) *Not over \$20,000.* (1) Claims for liquidated damages not exceeding \$20,000 incurred for violation of the conditions of bonds taken pursuant to schedule 8, part 5C, Tariff Schedules of the United States. (See § 10.39 (e) and (f) of this chapter.)

(2) Claims for liquidated damages not exceeding \$20,000 incurred for violation of the conditions of bonds taken pursuant to schedule 3, part 1C, headnote 4, Tariff Schedules of the United States. (See § 10.92 of this chapter.)

(3) Claims for liquidated damages not exceeding \$20,000 in cases involving only country of origin marking under section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304). (See § 11.11(d) of this chapter.)

(4) Claims for liquidated damages not exceeding \$20,000 incurred for violation of the conditions of bonds taken pursuant

to § 18.1 of this chapter. (See § 18.8(d) of this chapter.)

(5) Claims for liquidated damages not exceeding \$20,000 incurred for violation of the conditions of cartmen's and lightermen's bonds taken pursuant to § 21.1 of this chapter. (See § 21.8(c) of this chapter.)

§ 172.22 Special cases acted on by district director of Customs.

(a) *Nonproduction of documents in general.* District directors of Customs are hereby authorized to treat any bond charge for the production of a missing document as satisfied upon payment by the principal or surety of the sum of \$25 as liquidated damages for each missing declaration of the consignee or other document, except shippers' export declarations, special Customs and commercial invoices, and certificates of origin and certificates of reexport required under § 12.70 of this chapter, not produced within the time prescribed by law or regulations or any lawful extension of such time.

(b) *Nonproduction of special Customs or commercial invoices.* When a required special Customs or commercial invoice is not produced on the date of entry or within 6 months thereafter, unless such production is waived under the provisions of § 8.15(d) of this chapter, the bond charge for the production thereof may be canceled by the district director upon the payment of \$25 as liquidated damages, if:

(1) The party who made the entry submits an application for relief explaining in detail why the special Customs or commercial invoice could not be produced within the prescribed period; and

(2) The district director of Customs is satisfied by such application or otherwise that the failure to produce the invoice within the prescribed period was due to causes wholly beyond the control of the party making the entry and not to any purpose of the foreign seller or shipper to withhold information required by law, regulation, or special instruction to be shown on the invoice.

(c) *Nonproduction of free-entry or reduced-duty documents.* When free entry or the application of a reduced rate of duty is dependent upon the production of a document which the importer fails to produce, or when a conditionally free or reduced-duty provision claimed on entry is held to be inapplicable, the claim for free entry or reduced rate of duty shall be treated by the district director as abandoned upon the assessment and payment of duty and the bond given for the production of the free-entry or reduced-duty document may be canceled without the collection of liquidated damages.

(d) *Failure to file timely entry under immediate delivery procedure.* When a timely entry for merchandise not subject to quota has not been filed after release under a special permit for immediate delivery, the district director may act upon an application for relief from liquidated damages assessed in accordance with § 8.59(1) of this chapter as follows:

(1) If he is satisfied that the delay was not deliberate, the district director may cancel such liquidated damages upon the payment of an appropriate sum which shall not exceed 10 percent of the duty assessed but not less than \$25. In general, the district director shall not cancel a claim for liquidated damages upon payment of an amount in the lower range of his discretion if the entry is late by more than 3 working days. In determining the appropriate amount the district director shall take into consideration the following:

(i) The circumstances causing the delay;

(ii) The extent of the lateness;

(iii) The amount of duty involved; and

(iv) The past record of the importer with respect to the timeliness of filing entries.

(2) If he is satisfied that the violation was incurred solely because of a delay in the return by Customs to the importer of documents necessary to make entry, the district director may cancel such liquidated damages without payment.

(3) If collection of an amount greater than that provided by this paragraph appears warranted the case shall be forwarded to the Commissioner of Customs for disposition.

§ 172.23 Limitations on consideration of petitions.

No action looking to relief from the payment of full liquidated damages shall be taken on any petition, irrespective of the amount involved, if the claim has been referred to the U.S. attorney for collection as provided in § 172.2.

Subpart D—Disposition of Petitions

§ 172.31 Act or omission did not occur.

If it is definitely determined that the act or omission forming the basis for a claim for liquidated damages did not in fact occur, the claim shall be canceled by the district director. When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be canceled without the approval of the Commissioner of Customs, unless there is in force a ruling decisive of the issue.

§ 172.32 Limitation on time decision effective.

A decision to cancel a claim for liquidated damages on condition that a stated amount be paid shall be effective for not more than 60 days from the date of notice to the parties of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed within the effective period, the full claim for liquidated damages shall be deemed applicable and shall be promptly referred to the U.S. attorney for collection, unless other action has been directed by the Commissioner of Customs.

§ 172.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the interested parties are not satisfied with a

decision of the district director or the Commissioner of Customs, a supplemental petition may be filed with the district director of Customs by the interested parties. Such a petition shall be filed either:

(1) Within 60 days from the date of notice to the petitioner of the decision on the initial petition for relief if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision on the initial petition for relief as the effective period of the decision.

(b) *Consideration.* Where the district director of Customs has authority to grant relief in accordance with the provisions of § 172.21, he may grant additional relief if he believes it is warranted and there has been no specific request for reconsideration by the Commissioner of Customs. In all other cases, the supplemental petition, together with all pertinent documents, shall be forwarded to the Commissioner of Customs for reconsideration of the case.

ANNEX TO REVISED PARTS 171 AND 172

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in revised Part 171 to 19 CFR Part 23.)

| Revised section | Superseded section |
|-----------------|--------------------|
| 171.0 | None |
| 171.1(a) | 23.23(d) |
| 171.1(b) | 23.23(e) |
| 171.11 | 23.24(a) |
| 171.11(e) | None |
| 171.12(a) | 23.24(a) |
| 171.12(b) | 23.23(c) |
| 171.12(c) | 23.24(a) |
| 171.13(a) | 23.24(a) |
| 171.13(b) | 23.24(b) |
| 171.21 | 23.25(a) |
| 171.22(a) | 23.25(b) |
| 171.22(b) | 23.25(c) |
| 171.22(c) | 23.34(a) and (b) |
| 171.31 | 23.25(e) |
| 171.32 | 23.23(c) |
| 171.33 | 23.25(d) |
| 171.41 | None |
| 171.42 | 23.24(c) |
| 171.43 | 23.24(c) |
| 171.44 | 23.24(d) |

(This table shows the relation of sections in revised Part 172 to 19 CFR Chapter I.)

| Revised section | Superseded section |
|-----------------|---|
| 172.0 | None |
| 172.1 | None |
| 172.2(a) | 25.15(e) |
| 172.2(b) | None |
| 172.11(a) | None |
| 172.11(b) | None |
| 172.12(a) | None |
| 172.12(b) | None |
| 172.12(c) | None |
| 172.21 | None |
| 172.21(a) | 25.17(g) |
| 172.21(b) | 10.39 (e) and (f), 10.92(d), 11.11 (d), 18.8(d), 21.8(c) |
| 172.22(a) | 25.17(a) |
| 172.22(b) | 25.17(b) |
| 172.22(c) | 25.17(e) |
| 172.22(d) | 8.59(j) |
| 172.23 | None |
| 172.31 | 25.19 |
| 172.32 | None |
| 172.33 | 25.17(h) |

[F.R. Doc. 70-15948; Filed, Nov. 30, 1970; 8:45 a.m.]